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Montana's Child Labor Law Reference Guide

Introductory....

This summary on the Montana Child Labor Standard laws provides general information only and should not be considered as an official document.

Official statements of policy and procedure are contained in the regulations formally adopted by the Wage and Hour Unit of the Montana Department of Labor and Industry.

Assistance....

Inquiries about the Montana Child Labor Law, Minimum Wage laws and other Montana labor laws and their application will be answered by mail, telephone or personal interview at the:

**Department of Labor and Industry
Wage and Hour Unit
PO Box 6518
Helena, Montana 59604-6518
Phone: 406/444-5600**

Montana Codes Annotated -- Title 41, Chapter 2

“Declaration of Policy. It is declared to be the policy of this Act to protect young workers from employment that might interfere with their educational opportunities or be detrimental to their health or well-being.”

General provisions of the child labor laws...

The Montana Child Labor Standards Act of 1993 establishes the hours children may work and the hazardous occupations in which they may not work - unless specifically exempted.

The Montana Child Labor Laws apply to all children, migrant as well as resident children. These laws parallel, but do not supersede the federal child labor laws. The federal law is similar to the Montana law but is more restrictive in certain areas.

Common terms...

Agriculture, includes all aspects of farming including the cultivation and tillage of the soil; dairying; growing, harvesting and production of agricultural and horticultural commodities; raising of livestock, bees, fur bearing animals or poultry; and, any practices, including forestry or lumbering operations performed by a farmer or on a farm as an incident to or in conjunction with farming operations, including preparation for market or delivery to storage, to market, or to carriers for transportation to market.

Minor, an individual under 18 years of age, except for an individual who:

- (a) - has received a high school diploma or has received a passing score on the general education development examination; or
- (b) - is 16 years of age or older and is enrolled in a registered state or federal apprenticeship program.

Employed or employment, means an occupation engaged in, permitted, or suffered, with or without compensation in money or other valuable consideration, whether paid to the minor or to some other person, including but not limited to occupations as servant, agent, sub-agent, or independent contractor. It does not include casual, community service, nonrevenue raising, uncompensated activities.

Occupation, means an occupation, service trade, business, or industry in which employees are employed; any branch or group of industries in which employees are employed; or any employment or class of employment in which employees are employed.

Domestic services, means an occasional, irregular, or incidental nonhazardous occupational activity related to and conducted in or around a private residence, including but not limited to baby-sitting, pet sitting or similar household chore, and manual yard work. Domestic service specifically excludes industrial homework.

Hazardous occupations, nonagricultural occupations which have been declared to be particularly hazardous, involving risk, or detrimental to the health and well-being of individuals under 18 years of age.

The following are considered **hazardous occupations**:

1. Manufacturing and storing explosives.
2. Riding outside a motor vehicle to assist in transporting or delivering goods.
3. Coal mining.
4. Logging and saw milling.
5. Power-driven woodworking machines.
6. Exposure to radioactive substances.
7. Power-driven hoisting apparatus, such as non-automatic elevators, fork lifts, and cranes.
8. Power-driven metal-forming, punching, and shearing machines.
9. Mining, other than coal mining.
10. Slaughtering, meat-packing, processing, or rendering.
11. Power-driven bakery machines.
12. Power-driven paper-products machines.
13. Manufacturing of brick, tile, and similar products.
14. Power-driven circular saws, band saws, and guillotine shears.
15. Wrecking, demolition, and shipbreaking operations.
16. Roofing operations.
17. Excavation operations.

For a complete listing of prohibited machines, see "Child Labor Bulletin No. 101" available from the United States Department of Labor, Wage-Hour Division in Salt Lake City, Utah, 801-524-5706.

Exemptions

ALL MINORS, regardless of age, may be employed:

- By their parents or guardians (except in manufacturing, mining and hazardous occupations).
- In agriculture or farming with written consent of their parents or guardians or on a farm or in a home owned by their parents or guardians or on a farm where the parent or guardian is also employed.
- In the delivery or collection of news papers, periodicals or circulars.
- In casual, community, non-revenue raising, uncompensated activity, (such as religious and charitable volunteer work).
- As an actor, model or performer.
- As a legislative aide.
- In casual domestic work at a person's home.
- As an official or referee for a non-profit athletic organization. A minor who is under the age of 14 may not officiate at adult events or activities.

Additional exceptions are provided for student-learners and apprenticeship programs.

Prohibited employment of minors under fourteen years of age . . .

Except as provided above, a minor who is under 14 years of age may not be employed in or in connection with an occupation.

Prohibited employment of minors who are 14 or 15 years of age...

Minors who are 14 and 15 years old may not work in the following:

NONAGRICULTURAL JOBS

- manufacturing, mining, most processing work, and all hazardous occupations; operating or tending most power-driven machinery; public messenger service; and work connected with warehousing, storage, transportation, communications, public utilities, and construction (except office and sales jobs when not performed on transportation vehicles or on construction sites).

AGRICULTURAL JOBS

- felling, bucking, skidding, loading or unloading timber with a butt diameter of more than nine inches; repairing a building from a ladder or scaffold at a height of more than twenty feet; working inside a fruit, forage or grain storage structure designed to retain an oxygen deficient or toxic atmosphere; working inside a silo within two weeks after silage has been added or when a top loading device is in operating position; handling or using a blasting agent including but not limited to dynamite, black powder, sensitized ammonium nitrate, blasting caps or primer cord; or transferring or applying anhydrous ammonia.

Exemptions from prohibited occupations in agriculture...

Exemptions from some of the hazardous occupations apply for 14 and 15 year old student learners enrolled in vocational agriculture programs when certain requirements are met.

Minors aged 14 and 15 who hold certificates of completion of training under a 4-H or vocational agriculture training program may work outside school hours on equipment for which they have been trained.

Prohibited employment of minors who are 16 or 17 years of age...

Unless working as an apprentice or student-learner under 41-2-110 MCA, a minor 16 or 17 years of age may not be employed in or in connection with hazardous occupations.

Working hours for minors...

Unless otherwise exempt, a minor who is 14 or 15 years of age may not be employed:

- during school hours, except as provided for in Work Experience and Career Exploration Programs approved by the department or the office of public instruction.
- before 7 a.m. or after 7 p.m., except that the minor may be employed until 9 p.m. during periods outside the school year (June 1 through Labor Day, depending on local standards);
or
- employed more than 3 hours on a school day;
- 18 hours in a school week;
- 8 hours on a non-school day;
or
- 40 hours in a week in a non-school week.

Enforcement...

Montana statutes allow authorized representatives of the Wage and Hour Unit to investigate and gather data regarding the wages, hours and other conditions and practices of employment. They can enter establishments and inspect the premises and records, transcribe records and interview employees. They can investigate whatever facts, conditions or practices that are considered necessary to find out whether Montana law has been violated.

Penalties...

An employer who violates any of the provisions of this part is guilty of a misdemeanor and is punishable as provided in 46-18-212 MCA.